

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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TREVOR BRITVEC, BENJAMIN KUDLER and MARGARET
HEWITT, TIMOTHY MAHONEY and DEVIN MAXINE,

Plaintiff,

NOTICE OF REMOVAL

- against -

Docket No. 21 Civ. 10759

THE CITY OF NEW YORK; MAYOR BILL DEBLASIO; NEW York Law Dep't No.: 2021-001691
YORK CITY POLICE DEPARTMENT ("NYPD")
COMMISSIONER DERMOT SHEA, NYPD CHIEF OF
DEPARTMENT TERENCE MONAHAN; NYPD OFFICER
FIRST NAME UNKNOWN ("FNU") COSTELLO; NYPD
OFFICER ANTHONY KAHN; NYPD OFFICER JEREMY
MCGEE; NYPD DETECTIVE FNU SOFOLCE; AND NYPD
MEMBERS JOHN AND JANE DOES 1-11

Defendants.

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**TO: THE UNITED STATES DISTRICT COURT,
SOUTHERN DISTRICT OF NEW YORK**

Defendants THE CITY OF NEW YORK (hereinafter the "City"), MAYOR BILL
DEBLASIO and COMMISSIONER DERMOT SHEA, by and through their attorney,
GEORGIA M. PESTANA, Corporation Counsel of the City of New York, respectfully show this
Court as follows:

1. Upon information and belief, on November 18, 2021, the City was served with a
Summons and Verified Complaint in the above-entitled action, pending in the Supreme Court of
the State of New York, County of New York, under Index No. 158182/2021E, naming the City,
Mayor Bill DeBlasio, Commissioner Dermot Shea, Chief of Department Terrence Monahan,
Officers Costello, Anthony Kahn and Jeremy McGee, Detective Sofolce, and John and Jane
Does as defendants therein, and setting forth the claims for relief upon which the action is

allegedly based. A copy of Plaintiff's Summons and Verified Complaint, filed September 1, 2021, is annexed hereto as "Exhibit A."

2. Upon information and belief, the following service was made on the above-entitled action: On November 18, 2021, the City of New York, Mayor Bill De Blasio and NYPD Commissioner Dermot Shea were served with a Summons and Verified Complaint via service upon Deputy Unit Chief Arton Marke. On November 19, 2021, NYPD Officer Costello was served with a Summons and Verified Complaint at the 109th Precinct of the New York City Police Department. On November 22, 2021 NYPD Chief of Department Terence Monahan was served with a Summons and Verified Complaint at One Police Plaza, New York, NY.

3. A review of the New York State Courts Electronic Filing System on December 13, 2021, at approximately 10:15 a.m., revealed that no affidavits of service for Officers Jeremy McGee, Andrew Kahn or Detective (FNU) Sofolce were filed. Further, a review of NYPD records indicates that there is no NYPD member of service with the last name Sofolce.

4. The above-captioned action is a civil action of which the United States District Court has original jurisdiction in that it includes causes of action which arise under the Constitution and laws of the United States, pursuant to 28 U.S.C. § 1331. This action is therefore removable to the United States District Court without regard to the citizenship or residence of the parties.

5. Plaintiff bring this lawsuit pursuant to 42 U.S.C. § 1983 alleging, *inter alia*, claims of false arrest, excessive force, First Amendment retaliation and violations of due process, as well as state law claims for, *inter alia*, false arrest, malicious prosecution, and assault and battery. See Ex. A.

6. This Notice of Removal is timely because it is being filed within thirty (30) days of receipt of the initial pleading by the City, and all individually named defendants that have been served consent to its removal. See 28 U.S.C. § 1446(b). See Consent to Removal forms, collectively annexed hereto as Exhibit B.

7. On or about December 15, 2021, the City interposed an Answer to the Summons & Complaint. A copy of the City's Verified Answer, electronically filed on December 15, 2021, is annexed hereto as Exhibit C.


8. The City will promptly file a copy of this Notice of Removal with the Clerk of the state court in which the action has been pending.

9. The City is unaware of any previous application for the relief requested herein.

WHEREFORE, defendants respectfully requests that the above-captioned action be removed from the Supreme Court of the State of New York, County of NEW YORK, to the United States District Court for the Southern District of New York.

Dated: New York, New York
December 16, 2021

GEORGIA M. PESTANA
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YORK, MAYOR BILL DEBLASIO, and
COMMISSIONER DERMOT SHEA*
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